

Introduced by Senator Correa

February 8, 2011

An act to amend Sections 2159.5 and 18108.5 of, and to add Section 18109.5 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 205, as introduced, Correa. Voter registration: paid registration activities.

Existing law authorizes any person, company, or other organization that complies with specified conditions to agree to pay money or other valuable consideration, on a per-affidavit basis or otherwise, to any person who assists another person to register to vote by receiving the completed affidavit of registration.

This bill would prohibit any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration, would prohibit the receipt of this per-affidavit consideration, and would make conforming changes. A violation of these prohibitions would be a misdemeanor.

Existing law requires an elections official to notify the payor of a person who assists others to register to vote if 3 or more affidavits submitted by the person assisting do not comply with specified provisions.

This bill would provide that this notification is required when 3 or more affidavits submitted by the person assisting each reflects a violation of one or more of those provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2159.5 of the Elections Code is amended
2 to read:

3 2159.5. Any person, company, or other organization that agrees
4 to pay money or other valuable consideration, ~~whether on a~~
5 ~~per-affidavit basis or otherwise~~, to any person who assists another
6 person to register to vote by receiving the completed affidavit of
7 registration, shall do all of the following:

8 (a) Maintain a list of the names, addresses, and telephone
9 numbers of all individuals that the person, company, or other
10 organization has agreed to compensate for assisting others to
11 register to vote, and shall provide to each person receiving that
12 consideration a written statement of that person's personal
13 responsibilities and liabilities under Sections 2138, 2139, 2150,
14 2158, 2159, 18100, 18101, 18103, 18106, 18108, 18108.1, and
15 18108.5. Receipt of the written statement shall be acknowledged,
16 in writing, by the person receiving the consideration, and the
17 acknowledgment shall be kept by the person, company, or
18 organization that agrees to compensate that person. All records
19 required by this subdivision shall be maintained for a minimum
20 of three years, and shall be made available to the elections official,
21 the Secretary of State, or an appropriate prosecuting agency, upon
22 demand. As an alternate to maintaining the records required by
23 this subdivision, the records may be filed with the county elections
24 official, who shall retain those records for a minimum of three
25 years. The county elections official may charge a fee, not to exceed
26 actual costs, for storing records pursuant to this subdivision.

27 (b) Not render any payment or promised consideration unless
28 the information specified in Section 2159 has been affixed
29 personally on the affidavit in the handwriting of the person with
30 whom the agreement for payment was made.

(c) At the time of submission of affidavits to elections officials, identify and separate those affidavits into groups that do and that do not comply with the requirements of Sections 2150 and 2159. A signed acknowledgment shall be attached to each group of affidavits identifying a group as in compliance with Sections 2150 and 2159, and a group as not in compliance with either Section 2150 or 2159, or both.

(d) Failure to comply with this section shall not cause the invalidation of the registration of the voter.

SEC. 2. Section 18108.5 of the Elections Code is amended to read:

18108.5. (a) Any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration who fails to comply with Section 2159.5, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months or, when the failure to comply is found to be willful, not exceeding one year, or *by both that fine and imprisonment.*

(b) Any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration, upon a third or subsequent conviction, on charges brought and separately tried, for failure to comply with Section 2159.5 shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the county jail not to exceed one year, or *by both that fine and imprisonment.*

(c) An elections official shall notify any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration, ~~that when three or more affidavits of registration submitted by a person who assisted another others to register to vote do not comply with each reflects a violation of one or more of Sections 18100, 18101, 18103, or and 18106.~~ The elections official may forward a copy of each of the noncomplying affidavits of registration to the district

1 attorney, who may make a determination whether probable cause
2 exists to believe that a violation of law has occurred.

3 (d) This section shall not apply to any public agency or its
4 employees that is designated as a voter registration agency pursuant
5 to the National Voter Registration Act of 1993 (42 U.S.C. Sec.
6 1973gg), when an elector asks for assistance to register to vote
7 during the course and scope of the agency's normal business.

8 SEC. 3. Section 18109.5 is added to the Elections Code, to
9 read:

10 18109.5. (a) Any person who offers to pay or pays money or
11 other valuable consideration to another person, either directly or
12 indirectly, on a per-affidavit basis to assist another person to
13 register to vote by receiving the completed affidavit of registration
14 is guilty of a misdemeanor.

15 (b) Any person who receives money or other valuable
16 consideration, either directly or indirectly, on a per-affidavit basis
17 to assist another person to register to vote by receiving the
18 completed affidavit of registration is guilty of misdemeanor.

19 (c) Nothing in this section shall be construed to prohibit payment
20 for assisting another person to register to vote by receiving the
21 completed affidavit which is not, either directly or indirectly, on
22 a per-affidavit basis.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.